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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,290	05/19/2004	James Thiel	7407	5606

7590 04/21/2005
Paul M. Denk
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EXAMINER

ADAMS, GREGORY W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/849,290	Applicant(s) THIEL ET AL.	
	Examiner Gregory W. Adams	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/3/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Referring to claim 5, an "elliptical hole" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 & 5-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With reference to claim 1, line 10, lacking recitation of a pivot, it is unclear how the device will "pivot into a final location for storage."

With respect to claim 5, with reference to specification page 6, a circular hole as claimed in claim 4 is apparent from the drawings. However, an alternative embodiment providing an elliptical complete hole in the upper flange is neither provided in the specification nor drawings, nor is any achievable result profited from the alternative embodiment. Given that applicant thought enough to provide for two embodiments of the complete hole and given that a flange with a hole essentially provides for vertical displacement of applicants invention, the shape of the complete hole whether square, circular, elliptical, triangular...etc. is a key factor in displacement performance. Thus, an elliptically shaped complete hole is critical or essential to the practice of the invention, but not enabled by the disclosure.

Claim 6 recites the limitation "said vehicle" in line 7. There is insufficient antecedent basis for this limitation in the claim. Moreover, referring to step 'g', it is unclear how an additional vehicle will be placed on a boom. If there are multiple booms required to do this, only one is disclosed and it is not clear how one boom will lift multiple vehicles. Also, it is not clear how "load capacity" is determined or what it

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means. Is it two vehicles, four vehicles, or a function of the components capabilities, i.e. the lifting capacity of the screw drive and motor?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3 & 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (US 2,593,635).

6. With respect to claim 1, referring to FIG. 4, Walker discloses a device for lifting one or more vehicles or equipment having a column 10A mounted upon a base 13A, a column 10A containing a vertical screw drive 30A powered by an electrical motor 35A mounted upon a column 10A opposite a base 13A, one or more carriages 25A, 46A, 47A, 44A, and one or more booms 42A-A' to raise a vehicle.

7. With respect to claim 3, referring to FIG. 4, Walker discloses a boom 42A-A' having a telescoping extension. Col. 5, Ins. 47-50.

8. With respect to claim 6 referring to FIG. 4, Walker discloses a method for storing one or more vehicles or equipment vertically comprising reinforcing a base 13A, installing a carriage 25A, 46A, 47A, 44A upon a screw lift 30A, placing a boom 42A-A' upon a carriage (FIG. 4) 46A, 47A, 44A, telescoping boom extension (col. 5, Ins. 47-50), placing a vehicle on a boom 42A-A', raising and rotating a boom 42A-A' to a desired position, repeat.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2 & 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 2,593,635) in view of Villars (US 2,843,222). With respect to claim 2, Walker discloses a lifting device further comprising a carriage (FIG. 4) 25A, 46A, 47A, 44A having an upper flange 25A having a complete hole, and handles 42, whereby upper flange 25A, rests upon and around a carriage 25A, 46A, 47A, 44A.

Walker does not disclose semicircular hole in a lower flange. Villars discloses a lifting device 1 further comprising a carriage 15 having an upper flange 11, 12 having a complete hole and a lower flange 43 and having a semicircular hole coaxial with upper flange hole 11, 12 and resting against a screw drive 6. Villars teaches a semicircular holed flange to mate with a second semicircular holed flange so as to form a safety device with respect to uncontrolled downward motion of a lifting device 1. Col. 3, Ins. 58-75. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lifting device of Walker to include a semicircular hole in a lower flange, as per the teachings of Villars, to provide a safety device with respect to uncontrolled downward motion of a lifting device.

11. With respect to claim 4, referring to FIG. 4, Walker discloses a complete hole is round.

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12. With respect to claim 5, referring to FIG. 4, Walker discloses a complete hole is elliptical.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2003/0138309 to Kozak

US 3,727,780 to Buccicone

US 3,687,234 to Gendreau

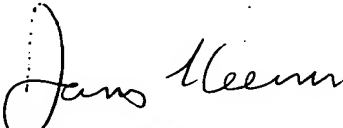
US 3,958,664 to Perkins

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA


JAMES W. KEENAN
PRIMARY EXAMINER